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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 JAMES SWAIN, } Case No.: 4:13-CV-00440-SBA
17 vs. } STIPULATION AND PROPOSED ORDER
18 CAROLYN W. COLVIN, } APPROVING SETTLEMENT OF
19 Acting Commissioner of Social Security, } ATTORNEY FEES PURSUANT TO THE
20 } EQUAL ACCESS TO JUSTICE ACT, 28
21 } U.S.C. § 2412(d), AND COSTS PURSUANT
22 } TO 28 U.S.C. § 1920
23 }
24 } Defendant. }
25 }

26 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
27 counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees in the amount of
28 SIX THOUSAND, NINE-HUNDRED DOLLARS AND ZERO CENTS (\$6,900.00) under the
Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO
DOLLARS (\$0.00) under 28 U.S.C. § 1920. This amount represents compensation for all legal
services rendered on behalf of Plaintiff by counsel in connection with this civil action, in
accordance with 28 U.S.C. §§ 1920, 2412(d).

29 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
30 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*
Ratliff, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
31 fees are subject to any offset allowed under the United States Department of the Treasury's
32
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1 Offset Program. After the order for EAJA fees is entered, the government will determine
2 whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
4 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,
5 expenses and costs to be made directly to Harvey P. Sackett, pursuant to the assignment executed
6 by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

7 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
8 attorney fees and expenses, and does not constitute an admission of liability on the part of
9 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a
10 complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel,
11 including Sackett and Associates, may have relating to EAJA attorney fees and expenses in
12 connection with this action.

13 This award is without prejudice to the rights of Plaintiff's counsel and/or Sackett and
14 Associates to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
15 savings clause provisions of the EAJA.

16
17 Respectfully submitted,

18 Dated: June 6, 2014 By: /s/ Lynn M. Harada for Harvey P. Sackett*
19 (*as authorized by email on 6/6/14)
20 HARVEY P. SACKETT
Attorney for Plaintiff

21 MELINDA HAAG
22 United States Attorney
23 DONNA L. CALVERT
24 Regional Chief Counsel, Region IX
Social Security Administration

25 Dated: June 6, 2014 By: /s/ Lynn M. Harada
26 LYNN M. HARADA
27 Special Assistant United States Attorney
28 Attorneys for Defendant

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of SIX THOUSAND, NINE-HUNDRED DOLLARS AND ZERO CENTS (\$6,900.00), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: 6/11/2014

Saundra B. Armstrong
THE HONORABLE SAUNDRA BROWN ARMSTRONG
United States District Judge

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